

# **EXHIBIT 1**

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SEALED PROCEEDINGS

1

1 UNITED STATES DISTRICT COURT

2 FOR THE NORTHERN DISTRICT OF CALIFORNIA

3 SAN JOSE DIVISION

4 CHASOM BROWN, WILLIAM BYATT,  
5 JEREMY DAVIS, CHRISTOPHER  
6 CASTILLO, AND MONIQUE TRUJILLO,  
7 INDIVIDUALLY AND ON BEHALF OF  
THEMSELVES AND ALL OTHERS  
SIMILARLY SITUATED,

CASE CV-20-03664 YGR (SVK)

SAN JOSE, CALIFORNIA

JANUARY 10, 2023

8 PLAINTIFF,

SEALED PAGES 1 - 36

9 VS.

10 GOOGLE LLC,

11 DEFENDANT.

COPY

12 TRANSCRIPT OF SEALED ZOOM PROCEEDINGS  
13 BEFORE THE HONORABLE SUSAN VAN KEULEN  
UNITED STATES MAGISTRATE JUDGE

14 A-P-P-E-A-R-A-N-C-E-S

15 FOR THE PLAINTIFF:

MORGAN AND MORGAN COMPLEX LITIGATION  
GROUP

BY: RYAN MCGEE

201 N. FRANKLIN STREET, 7TH FLOOR  
TAMPA, FLORIDA 33602

18 SUSMAN GODFREY L.L.P.

BY: AMANDA K. BONN

19 1900 AVENUE OF THE STARS, SUITE 1400  
LOS ANGELES, CALIFORNIA 90067

20 BOIES SCHILLER FLEXNER LLP

BY: MARK C. MAO

21 44 MONTGOMERY STREET, 41ST FLOOR  
22 SAN FRANCISCO, CALIFORNIA 94104

23 (APPEARANCES CONTINUED ON THE NEXT PAGE.)

24 OFFICIAL COURT REPORTER: IRENE L. RODRIGUEZ, CSR, RMR, CRR  
CERTIFICATE NUMBER 8074

25 PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY,  
TRANSCRIPT PRODUCED WITH COMPUTER.

A P P E A R A N C E S: (CONT'D)

FOR THE DEFENDANT:

QUINN EMANUEL URQUHART AND  
SULLIVAN, LLP

BY: ANDREW H. SCHAPIRO  
191 N. UPPER WACKER DRIVE  
SUITE 2700  
CHICAGO, ILLINOIS 60606

BY: DONALD SETH FORTENBERY  
JOSEF T. ANSORGE  
51 MADISON AVENUE, 22ND FLOOR  
NEW YORK, NEW YORK 10010

BY: STEPHEN ANDREW BROOME  
VIOLA TREBICKA  
865 S. FIGUEROA STREET  
10TH FLOOR  
LOS ANGELES, CALIFORNIA 90017

BY: XI (TRACY) GAO  
1300 I STREET NW, SUITE 900  
WASHINGTON, DC 20005

ALSO PRESENT:

GOOGLE LLC  
BY: MATTHEW GUBIOTTI  
TONI BAKER

SAN JOSE, CALIFORNIA

JANUARY 10, 2023

P R O C E E D I N G S

(COURT CONVENED AT 10:07 A.M.)

THE COURT: GOOD MORNING EVERYONE. GOOD MORNING.

WELCOME BACK. WE'RE GOING TO CALL THESE MATTERS

SEPARATELY. I DO APPRECIATE EVERYONE ACCOMMODATING THE CHANGE  
TO A VIDEO HEARING.

MY INTENTION WAS THAT THAT WOULD MAKE LIFE EASIER FOR THE  
PARTIES, AND I UNDERSTAND SOME PEOPLE WERE ALREADY TRAVELLING.  
I APOLOGIZE. WE'RE TRACKING THE WEATHER AS BEST WE CAN AND  
TRYING TO ACCOMMODATE.

POWER AT THE COURTHOUSE HAS BEEN PERHAPS NOT AS RELIABLE  
AS ONE WOULD LIKE OR ONE WOULD HOPE, SO I ACTUALLY THINK THAT  
AT THE END OF THE DAY THIS IS THE BEST SETUP FOR US AT THIS  
TIME.

AGAIN, I DO APOLOGIZE TO THE EXTENT THE COURT'S NOTICE WAS  
NOT SUFFICIENTLY EARLY, BUT WE HAD LIVE HEARINGS ON FRIDAY, AND  
WE KNEW THERE WOULD BE ANOTHER BIG STORM TODAY, SO HERE WE ARE.

ALL RIGHT. MS. FANTHROPE, IF YOU WILL CALL THE BROWN  
MATTER. I KNOW THERE ARE SOME OVERLAPPING ISSUES. THERE ARE  
DISTINCT ISSUES. SO WE WILL TAKE THIS ONE AT A TIME.

SO IF THE CALHOUN PLAINTIFFS WILL TURN OFF YOUR VIDEO, AND  
FOR THOSE WHO ARE NOT SPEAKING, IF YOU CAN ALSO TURN OFF YOUR  
VIDEO TO THE EXTENT THAT WORKS ON YOUR SIDE, THAT WOULD BE  
HELPFUL SO WE HAVE AS FEW FACE SCREENS AS POSSIBLE SO WE CAN



1 FOLLOW EVERYONE.

2 ALL RIGHT. MS. FANTHROPE, IF YOU'LL CALL THE FIRST  
3 MATTER, PLEASE.

4 THE CLERK: YES. THIS IS A SEALED HEARING IN CASE  
5 20-CV-3664, BROWN, ET AL., VERSUS GOOG LLC ET AL.

6 COUNSEL, PLEASE IDENTIFY YOURSELVES FOR THE RECORD  
7 BEGINNING WITH THE PLAINTIFF.

8 MR. MCGEE: APOLOGIES, YOUR HONOR. I WAS WAITING ON  
9 MY COLLEAGUE, MR. MAO.

10 THIS IS RYAN MCGEE OF THE LAW FIRM OF MORGAN & MORGAN FOR  
11 THE PLAINTIFFS.

12 I'M JOINED BY MARK MAO OF BOIES SCHILLER FLEXNER, AND ALSO  
13 MS. AMANDA BONN OF SUSMAN GODFREY.

14 THE COURT: THANK YOU, MR. MCGEE, MR. MAO, MS. BONN,  
15 WELCOME.

16 AND FOR GOOGLE TODAY, MR. SCHAPIRO?

17 MR. SCHAPIRO: YES. ANDREW SCHAPIRO FOR GOOGLE.  
18 I'M JOINED BY VIOLA TREBICKA AND TRACY GAO, WHO I THINK WILL BE  
19 HANDLING MOST OF THE DISCUSSIONS RELATING TO BROWN TODAY WITH  
20 JOSEF ANSORGE AND STEPHEN BROOME WHO ARE ALSO HERE ALSO FROM  
21 OUR FIRM REPRESENTING GOOGLE, QUINN EMANUEL.

22 AND MATTHEW GUBIOTTI AND TONI BAKER, IN-HOUSE COUNSEL FROM  
23 GOOGLE, ARE ALSO WITH US.

24 THE COURT: ALL RIGHT. THANK YOU. WELCOME.

25 AS MS. FANTHROPE INDICATED, THIS PROCEEDING IS UNDER SEAL,

1 AND I WILL -- I DO ORDER THAT THE TRANSCRIPTS MAY BE RELEASED  
2 TO THE PARTIES FOLLOWING THE HEARING AS SOON AS THEY ARE  
3 AVAILABLE. THAT WILL SAVE US ISSUING AN ORDER LATER FOR  
4 RELEASE.

5 ALL RIGHT. IN BROWN WE ARE HERE TODAY TO ADDRESS GOOGLE'S  
6 MOTION FOR RELIEF FROM THE PRESERVATION ORDER, AND THAT MOTION  
7 WAS IN BRIEFING, IF NOT COMPLETED, WHEN JUDGE GONZALEZ ROGERS  
8 ISSUED HER ORDER ON CLASS CERTIFICATION ISSUING -- EXCUSE ME,  
9 CERTIFYING THE CLASS FOR INJUNCTIVE RELIEF BUT NOT CERTIFYING  
10 THE CLASS FOR DAMAGES.

11 AND I UNDERSTAND THAT BROWN HAS PETITIONED THE  
12 NINTH CIRCUIT FOR PERMISSION TO APPEAL THE CLASS CERTIFICATION  
13 RULING. I THINK THAT WAS JUST FILED NEAR THE END OF THE YEAR.

14 AND SO I DID ASK THE PARTIES, FOLLOWING  
15 JUDGE GONZALEZ ROGERS' ORDER, FOR FURTHER BRIEFING AS TO THE  
16 IMPACT OF THE ORDER ON THE PRESERVATION PLAN, AND I RECEIVED  
17 THOSE, AND I HAVE REVIEWED ALL OF THE PAPERS AND THE EXTENSIVE  
18 PAPER AND BRIEFING FROM THE PARTIES ON THESE ISSUES.

19 WHAT I RECEIVED FROM GOOGLE WAS FOLLOWING THE -- OR  
20 ADDRESSING THE IMPACT OF JUDGE GONZALEZ'S ORDER WAS AN UPDATED  
21 REQUEST. THE INITIAL REQUEST WITH REGARDS TO RELIEF FROM THE  
22 PRESERVATION PLAN ADDRESSED THE TABLES, THE LINKING AND A SET  
23 OF LINKING AND MAPPING TABLES AND WHETHER THOSE IN FACT NEEDED  
24 TO BE PRESERVED.

25 THE UPDATED REQUEST IS MUCH BROADER, WHICH IS TO STOP

10:13AM 1 PRESERVING THE DOCUMENTS GOING FORWARD AND TO DELETE WHAT HAS  
10:13AM 2 BEEN PRESERVED THUS FAR UNDER THE PLAN OR AT LEAST TO MOVE TO A  
10:13AM 3 COST SHARING MODEL. AND I LOOKED AT THOSE ARGUMENTS. I SEE  
10:13AM 4 OBVIOUSLY PLAINTIFFS' ARGUMENTS IN REPLY.

10:13AM 5 AND IT IS NOT MY -- WELL, MY TENTATIVE RULING, I DO NOT  
10:13AM 6 INTEND TO CHANGE THE SCOPE OF THE ORDER, THAT IS, TO STOP  
10:13AM 7 PRESERVING OR TO DELETE WHAT HAS ALREADY BEEN PRESERVED.

10:13AM 8 I THINK THAT THOSE ISSUES -- OBVIOUSLY THE ISSUE ON CLASS  
10:14AM 9 CERTIFICATION IS UP ON APPEAL, AND ACTUALLY I DO HAVE A  
10:14AM 10 LOGISTICAL QUESTION WITH REGARDS TO THAT, WHICH IS FOR THE  
10:14AM 11 BROWN PLAINTIFFS, WHICH IS WHEN DO YOU ANTICIPATE OR DO YOU,  
10:14AM 12 WHEN, IF YOU'RE ABLE, DO YOU ANTICIPATE HEARING FROM THE  
10:14AM 13 NINTH CIRCUIT WITH REGARDS TO YOUR PETITION?

10:14AM 14 MR. MCGEE?

10:14AM 15 MR. MCGEE: YOUR HONOR, I DO WISH I HAD THAT CRYSTAL  
10:14AM 16 BALL. I HAVE PARTICIPATED IN A FEW 23(F)'S OVER THE YEARS. I  
10:14AM 17 HAVE NEVER SEEN ANY OF THEM COME TO FRUITION FOR ONE REASON OR  
10:14AM 18 ANOTHER.

10:14AM 19 I WOULD INVITE MR. MAO OR MS. BONN IF THEY HAVE ANY MORE  
10:14AM 20 INSIGHT, SINCE THEY DO PRACTICE A LITTLE BIT MORE IN THE  
10:14AM 21 NINTH CIRCUIT THAN I DO.

10:14AM 22 MR. MAO: YOUR HONOR --

10:14AM 23 THE COURT: EDUCATED GUESS, MR. MAO?

10:14AM 24 MR. MAO: YES. SOMEWHERE BETWEEN FOUR TO SIX  
10:15AM 25 MONTHS, YOUR HONOR.



1 THE COURT: ALL RIGHT. MS. BONN, DID YOU HAVE  
2 ANYTHING TO ADD TO THAT?

3 MS. BONN: I THINK THAT SOUNDS RIGHT. I THINK IT'S  
4 POSSIBLE WE CAN HEAR ONE WAY OR ANOTHER WHETHER THEY'RE GOING  
5 TO TAKE UP THE 23(F) PETITION MORE QUICKLY, BUT I DON'T THINK  
6 FOUR TO SIX MONTHS SOUNDS OUT OF THE ORDINARY.

7 THE COURT: ALL RIGHT. SO, AGAIN, IN LIGHT OF THOSE  
8 ISSUES, OBVIOUSLY THE CLASS CERTIFICATION ISSUE, THE CASE HERE  
9 IN THE NORTHERN DISTRICT IS GOING FORWARD. IT IS NOT STAYED.  
10 I APPRECIATE THEIR ARGUMENTS AS TO, WELL, WHAT IS NEEDED OR NOT  
11 NEEDED WITH THE CLASS AS IS, BUT THE CLASS CERT QUESTION IS  
12 BEFORE THE NINTH CIRCUIT, SO I AM NOT INCLINED TO MAKE THOSE  
13 CHANGES REQUESTED BY GOOGLE IN ITS UPDATED REQUEST.

14 BUT THAT THEN BRINGS US BACK TO THE ORIGINAL MOTION FOR  
15 RELIEF, WHICH ADDRESSES [REDACTED] TABLES, [REDACTED] TABLES  
16 AND [REDACTED] ANALYTICAL TABLES.

17 AND LOOKING AT THAT, I SEE THAT REQUEST AS -- FOLLOWS FROM  
18 MY ORDER. PERHAPS IT'S A REQUEST FOR CLARIFICATION OR FOR  
19 WHETHER OR NOT A DETERMINATION WHETHER OR NOT THESE TABLES FIT  
20 THE ORDER, AND WE'LL WORK THROUGH THAT HERE IN JUST A MOMENT.  
21 BUT IT APPEARS TO ME THAT THEY DO, THAT IS, THESE TABLES FALL  
22 UNDER MY ORDER, BUT MAYBE NOT ENTIRELY.

23 AND WHAT DO WE DO ABOUT THAT? CAN THE PARTIES WORK OUT  
24 WHICH PORTIONS NEED TO BE SAVED AND WHAT ARE THE IMPLICATIONS  
25 WITH REGARDS TO COST SHIFTING? SO THAT'S VERY GENERALLY WHERE

1 I AM.

2 SO LET ME START HERE, WHICH IS OF COURSE I WENT BACK TO  
3 THE TRANSCRIPT WHERE WE WERE ADDRESSING PRESERVATION OF THE  
4 TABLES, AND I THINK I WAS CLEAR ON THE RECORD THAT IF THE TABLE  
5 IS NEEDED TO WORK WITH ANY OF THE DATA AT ISSUE, IT HAS TO BE  
6 PRESERVED. IF THE TABLE IS COMPLETELY UNRELATED TO ANY OF THE  
7 DATA IDENTIFICATION WERE PRODUCED IN THIS CASE, IDENTIFIED OR  
8 PRODUCED, THEN IT DOES NOT NEED TO BE PRESERVED.

9 NOW, GOOGLE HAS IDENTIFIED [REDACTED] TABLES OR HAS SAID IT IS  
10 PRESERVING [REDACTED] TABLES THAT CONTAIN MAPPING OR LINKING  
11 IDENTIFIERS THAT ARE SUBJECT TO PRESERVATION IN ONE OF THE  
12 SOURCES IDENTIFIED IN THE PRESERVATION ORDERS, AND I APPRECIATE  
13 THAT.

14 GOOGLE ALSO THEN GOES ON TO SAY THAT HAVING REVIEWED THE  
15 EVIDENTIARY RECORD, IT'S PRESERVING TABLES ADDRESSED IN  
16 DEPOSITIONS OR DOCUMENTS.

17 SO MY FIRST QUESTION, MS. TREBICKA, FOR GOOGLE IS SO IS  
18 THAT IN ADDITION TO THE [REDACTED] TABLES?

19 ARE THERE ADDITIONAL TABLES ARISING FROM THE EVIDENTIARY  
20 RECORD OR ARE THOSE -- IS THAT JUST A FURTHER DESCRIPTION OF  
21 THE [REDACTED]? IT WASN'T CLEAR TO ME FROM THE PAPER.

22 MS. TREBICKA: RIGHT. THE [REDACTED] TABLES IS THE SUM  
23 TOTAL OF THE TABLES THAT WE HAVE IDENTIFIED THAT FIT THE  
24 DESCRIPTION WHETHER -- FROM ALL SOURCES PURSUANT TO OUR  
25 INVESTIGATION.



1 THE COURT: OKAY. THEN AS I UNDERSTAND GOOGLE'S  
2 POSITION, IT IS THAT THE [REDACTED] TABLES CONTAIN LINKS  
3 THAT ARE DERIVED FROM THE [REDACTED] TABLES THAT ARE BEING PRESERVED;  
4 IS THAT CORRECT?

5 MS. TREBICKA: CORRECT, FROM A SUBSET OF THOSE [REDACTED]  
6 TABLES IS.

7 THE COURT: OKAY. ALL RIGHT.

8 AND THAT THE ANALYTICS TABLE RELATE TO THE GOOGLE  
9 ANALYTICS PRODUCTS, AND THERE'S AN EXPLANATION ABOUT THE  
10 MAPPING THAT IS PROVIDED ALREADY WITH REGARDS TO THE ANALYTICS  
11 LOGS IS SUFFICIENT AND THAT THIS IS JUST ADDITIONAL  
12 INFORMATION.

13 IS THAT -- I'M MOSTLY SIMPLIFYING FROM THE BRIEFS.

14 MS. TREBICKA: YES, YOUR HONOR. SORRY, YOUR HONOR.  
15 ESSENTIALLY THE MAPPING WITHIN THESE ANALYTICS TABLES IS  
16 ALREADY CONTAINED WITHIN THE ANALYTICS DATA THAT WE ARE  
17 PRESERVING IN BROWN BECAUSE THE MAPPING ITSELF IS PART OF THE  
18 SAMPLE THAT IS BEING PRESERVED.

19 THE COURT: OKAY. ALL RIGHT.

20 MS. TREBICKA: I GUESS IS HOW WE WOULD PUT IT.

21 THE COURT: ALL RIGHT. AND THEN I DID LOOK AT THE  
22 STATISTICAL, THE NUMBERS THAT WERE PROVIDED AND THE SUPPORTING  
23 DECLARATIONS AROUND THEM, AND I WILL SAY THAT I AM SURPRISED AT  
24 THE DISPROPORTIONALITY BETWEEN WHAT IS BEING PRESERVED IN THESE  
25 TABLES, THESE [REDACTED] TABLES AT ISSUE IN GOOGLE'S MOTIONS AND ALL

1 OTHER PRESERVED DATA THAT FALL UNDER THE PRESERVATION ORDER IN  
2 THIS CASE WHICH I TAKE THAT AS THIS IS NEW INFORMATION. I  
3 THINK IT'S REASONABLE THAT IT'S COME TO LIGHT AS SLEEVES GET  
4 ROLLED UP AND THE PRESERVATION PLAN IS BEING PUT INTO PLACE OR  
5 IS BEING EXECUTED. OBVIOUSLY THE PLAN IS IN PLACE.

6 AND IT'S SUBSTANTIAL. EVEN IF WE DON'T LOOK AT THE COST  
7 NUMBERS, AND I KNOW THERE'S SOME DEBATE ABOUT WHAT IS REFLECTED  
8 THERE, BUT JUST LOOKING AT THE AMOUNT OF DATA PRESERVED IN  
9 EACH, THESE TABLES ARE SIGNIFICANTLY, MANY TIMES OVER ALL OF  
10 THE OTHER PRESERVATION, THE AMOUNT OF DATA TO BE PRESERVED  
11 UNDER ALL OTHER ASPECTS OF THE ORDER.

12 AND THAT IN MY MIND CALLS INTO QUESTION THE  
13 PROPORTIONALITY AND AS WELL AS, FRANKLY, THE NEED FOR FULL  
14 PRESERVATION OF ALL OF THESE TABLES.

15 I ALSO APPRECIATE THAT THERE'S NOT A LOT OF EVIDENCE. I  
16 MEAN, THERE'S A -- THERE ARE SEVERAL DECLARATIONS FROM GOOGLE  
17 ON THESE POINTS BUT PLAINTIFFS HAVEN'T HAD AN OPPORTUNITY TO  
18 EXPLORE THAT.

19 WE'RE NOT GOING TO REOPEN DISCOVERY, BUT I WONDER IF THERE  
20 ISN'T A MECHANISM WHERE THE PARTIES CAN MEET AND CONFER, GET  
21 EXPERT INPUT FROM THE GOOGLE ENGINEERS, HAVE -- PLAINTIFFS CAN  
22 HAVE THEIR OWN EXPERTS LOOK AT THAT, IF THE PARTIES CAN WORK  
23 THROUGH THIS, IF THIS IS AN EXERCISE THAT BOTH SIDES BELIEVE  
24 NEED SPECIAL MASTER GUIDANCE, OR WHAT.

25 SO IT'S SORT OF WHAT IS THE PATH FORWARD? BUT THAT'S

1 GENERALLY WHAT I'M LOOKING AT IN TERMS OF HOW TO ADDRESS THE  
2 TABLES ISSUE.

3 SO, MS. TREBICKA, IT'S GOOGLE'S MOTION, SO I'M GOING TO  
4 LET YOU GO FIRST. I WANTED TO BE SURE THAT YOU UNDERSTOOD SORT  
5 OF WHAT I'M LOOKING AT AND THINKING BECAUSE THERE'S A LOT OF  
6 OTHER MATERIAL HERE THAT WE WON'T UNPACK HERE TODAY.

7 SO LET ME START WITH GOOGLE, AND THEN I'D LIKE TO HEAR  
8 FROM BROWN.

9 MS. TREBICKA: YES, YOUR HONOR. SO WITH RESPECT TO  
10 THE TABLES, I'D LIKE TO SET IT IN PERSPECTIVE WITH RESPECT  
11 TO WHETHER -- MEANING WHERE IT FITS IN THE PRESERVATION PLAN.

12 WE HAVE 11 MONTHS OF SPECIAL MASTER DISCOVERY CLASSES,  
13 COUNTLESS DOCUMENTS PRODUCED, DISCOVERY RESPONSES PRODUCED,  
14 ET CETERA, FROM WHICH WE IDENTIFIED THE SOURCES THAT FROM WHERE  
15 DATA WOULD BE PRESERVED.

16 ONCE WE IDENTIFIED THOSE SOURCES, AND THAT WAS DONE,  
17 AGAIN, WITH INPUT FROM EXPERTS AND SPECIAL MASTER AND  
18 YOUR HONOR, THEN PLAINTIFFS HAVE THIS REQUEST OF GOOGLE  
19 PRESERVING MAPPING OR LINKING TABLES FOR THE PURPOSE OF BEING  
20 ABLE TO READ THE DATA THAT WOULD BE PRESERVED. SO THAT WAS THE  
21 PURPOSE OF THE MAPPING AND LINKING TABLES.

22 INITIALLY WE IDENTIFIED THE PP ID TO BISCOTTI TABLE.  
23 YOUR HONOR SAID THAT WAS NOT ENOUGH. WE WENT BACK TO SQUARE  
24 ONE. WE STARTED AN INVESTIGATIVE PROCESS WHEREBY WE IDENTIFIED  
25 THESE ADDITIONAL TABLES, BUT OUR UNDERSTANDING, AND I THINK,



1 AGAIN, WITH THIS PERSPECTIVE IN MIND, IS THAT THE PURPOSE THAT  
2 THESE MAPPING OR LINKING TABLES NEED TO FULFILL IS THIS  
3 IDENTIFIER MAPPING THAT THE COURT FOUND WAS JUSTIFIED.

4 SO WITH THAT PERSPECTIVE IN MIND, THE MAPPING TABLE -- THE  
5 [REDACTED] MAPPING TABLES THAT WE HAVE IDENTIFIED, ALL OF THE MAPPING  
6 OR LINKING THAT IS RELEVANT PER YOUR HONOR'S ORDER IS ALREADY  
7 DUPLICATED ELSEWHERE IN THE DATA. THAT IS WHY WE THINK THAT  
8 IT'S NOT EVEN A DISCUSSION THAT NEEDS TO HAPPEN, AN EXPERT  
9 DISCUSSION THAT NEEDS TO HAPPEN, WELL, WHAT ELSE IS IN THE  
10 DATA -- WHAT ELSE IS IN THESE MAPPING TABLES? HOW CAN WE  
11 COMPROMISE, ET CETERA?

12 EVERYTHING THAT YOUR HONOR HELD IS RELEVANT AS FAR AS THE  
13 MAPPING OR LINKING IS ALREADY BEING PRESERVED. THERE IS JUST  
14 ABSOLUTELY NO REASON TO GO REOPEN DISCOVERY AND EXPEND EXTRA  
15 COSTS, MORE ENGINEERING TIME, MORE BURDEN ON GOOGLE TO RE-DO  
16 SOMETHING THAT HAS ALREADY BEEN DONE IN THIS CASE.

17 SO TO ANSWER YOUR HONOR'S QUESTION, WE THINK THAT THESE  
18 MAPPING AND LINKING TABLES, JUST THESE [REDACTED] MAPPING OR LINKING  
19 TABLES, AS YOUR HONOR NOTED, THE COST OF PRESERVING THEM IS  
20 EXORBITANT. IT'S MANY, MANY FOLDS, THE COST OF PRESERVING THE  
21 DATA ON THE BASIS OF THE PRESERVATION PLAN, AND THERE'S JUST  
22 SIMPLY NO PURPOSE THAT IS SERVED BY PRESERVING THEM.

23 THE COURT: ALL RIGHT. I THOUGHT THAT -- I MEAN,  
24 GOOGLE DOESN'T SAY IN THE PAPERS THAT THE DATA BETWEEN THESE  
25 [REDACTED] TABLES AND -- WELL, THE RELEVANT DATA, AND I APPRECIATE

10:26AM 1 THESE TABLES HAVE A LOT OF OTHER INFORMATION, I TAKE THAT.

10:26AM 2 BUT THAT THE -- GOOGLE DID NOT SAY THAT THE RELEVANT DATA  
10:26AM 3 IS DUPLICATED IN THE TABLES. IT USES THE WORD "DERIVED"  
10:26AM 4 CERTAINLY AS TO THE [REDACTED] TABLES.

10:26AM 5 AND I APPRECIATE THE EXPLANATION IN THE DECLARATIONS BUT,  
10:26AM 6 YOU KNOW, I THINK THAT THAT'S A QUESTION AS TO WHAT IS THAT AND  
10:26AM 7 HOW DOES THAT WORK?

10:26AM 8 AND THEN TODAY I HEARD, I HEARD YOU REFER WITH REGARDS TO  
10:26AM 9 THE ANALYTICS TABLES THAT THE INFORMATION IS DUPLICATED IN THE  
10:26AM 10 EXISTING TABLES.

10:26AM 11 SO --

10:26AM 12 MS. TREBICKA: MAY I EXPLAIN?

10:26AM 13 THE COURT: YES, PLEASE.

10:26AM 14 MS. TREBICKA: THANK YOU, YOUR HONOR. YES.

10:26AM 15 I'LL TAKE ANALYTICS FIRST.

10:26AM 16 THE COURT: UH-HUH.

10:26AM 17 MS. TREBICKA: THE ANALYTICS MAPPING TABLES WERE  
10:26AM 18 IDENTIFIED BECAUSE THEY CONTAIN A MAPPING BETWEEN UID OR CID TO  
10:27AM 19 A BISCOTTI. THAT MAPPING OR LINKING FROM A UID OR CID TO A  
10:27AM 20 BISCOTTI IS ALREADY CONTAINED IN THE ANALYTICS DATA, IN THE  
10:27AM 21 SAMPLED ANALYTICS DATA THAT IS BEING PRESERVED PURSUANT TO THE  
10:27AM 22 PRESERVATION PLAN, THAT EXACT LINK, MAPPING OR LINKING.

10:27AM 23 AND MY UNDERSTANDING IS THAT THE ANALYTICS TABLE DERIVE  
10:27AM 24 THAT LINK FROM THE PRESERVED DATA, WHAT I'M CALLING THE  
10:27AM 25 PRESERVED DATA, IN OTHER WORDS, FROM THE TABLES FROM WHERE THE



1 PRESERVED DATA -- NOT THE TABLES, FROM THE DATA SOURCES WHERE  
2 THE PRESERVED DATA ARE SAMPLING FROM.

3 SO I'M USING THE WORD "DUPLICATE" NOW FOR PURPOSES OF  
4 EXPLAINING IT IN A MORE SIMPLE AND UNDERSTANDABLE WAY, BUT IT  
5 IS THE EXACT SAME INFORMATION AS FAR AS THE MAPPING OR LINKING  
6 FROM UID OR CID TO BISCOTTI IN THE MAPPING TABLE AS WELL AS  
7 THIS LINK OF UID OR CID TO BISCOTTI IN THE PRESERVED SAMPLED  
8 DATA FOR THE ANALYTICS TABLE.

9 DOES THAT ANSWER YOUR HONOR'S QUESTION?

10 THE COURT: WELL, OKAY. SO WALK ME THROUGH. IT'S  
11 BEEN A LITTLE WHILE. WALK ME BACK THROUGH WHAT IS UID TO CID?  
12 TELL ME WHAT YOU'RE REFERRING TO.

13 MS. TREBICKA: IT'S UID OR CID TO BISCOTTI.

14 THE COURT: OKAY.

15 MS. TREBICKA: SO UID IS AN IDENTIFIER.

16 THE COURT: USER.

17 MS. TREBICKA: I BELIEVE -- AND MS. GAO, I'M SURE,  
18 WILL JUMP UP IF I MESS THIS UP, BUT I BELIEVE IT'S AN  
19 IDENTIFIER, AND CID IS ANOTHER IDENTIFIER.

20 THE COURT: RIGHT.

21 MS. TREBICKA: AND WHAT WOULD EXIST IN THESE MAPPING  
22 OR LINKING TABLES IN THE ANALYTICS MAPPING OR LINKING TABLES IS  
23 A LINK ESSENTIALLY, AGAIN, TO SIMPLIFY FOR PURPOSES OF  
24 PICTURING IT, A ROW THAT HAS A UID OR CID, AND THEN THE NEXT  
25 CELL HAS A BISCOTTI, AND THAT'S HOW THOSE TWO ARE LINKED OR

10:29AM 1 MAPPED.

10:29AM 2 THE COURT: OKAY.

10:29AM 3 AND THEN WHAT IS IN THE ANALYTICS LOGS THAT ARE ALREADY  
10:29AM 4 SUBJECT TO PRESERVATION?

10:29AM 5 MS. TREBICKA: AS FAR AS THIS PIECE OF DATA THAT  
10:29AM 6 WE'RE TALKING ABOUT, IT IS THAT SAME LINK, THE UID OR CID TO A  
10:29AM 7 BISCOTTI.

10:29AM 8 THE COURT: OKAY. AND THE PLAINTIFFS MAKE THE  
10:29AM 9 ARGUMENT THAT THE FIELDS IN THE DATA SOURCES THAT ARE ALREADY  
10:29AM 10 BEING PRESERVED DON'T HAVE ANY OBVIOUS UID OR CID OR BISCOTTI  
10:29AM 11 VALUES.

10:29AM 12 SO IS THIS AN INTERPRETATION ISSUE? AGAIN, I'M LOOKING  
10:30AM 13 FOR A WAY TO PROVIDE ADDITIONAL INFORMATION.

10AM 14 MS. TREBICKA: YES, YOUR HONOR. PERHAPS IT NEEDS  
10:30AM 15 CLARIFICATION.

10:30AM 16 [REDACTED]  
10:30AM 17 [REDACTED]  
10:30AM 18 [REDACTED]. AND THIS IS READILY APPARENT FROM  
10:30AM 19 CERTAIN DATA THAT WE HAVE PRODUCED IN THIS ACTION, AND I HAVE  
10:30AM 20 ATTACHED TO MY DECLARATION EXHIBIT 4 TO MY DECLARATION, AND  
10:30AM 21 I'LL JUST CONFIRM THE DOCKET NUMBERS FOR THAT,

10:30AM 22 BUT I BELIEVE IT IS DOCKET 799-3, 799-4.

10:30AM 23 THE COURT: ALL RIGHT. SO THAT'S THE ANALYTICS  
10:30AM 24 TABLES.

10:30AM 25 WHAT ABOUT THE [REDACTED] TABLES AND THE DERIVING DATA

1 OR THE LINKING/MAPPING INFORMATION CAN BE DERIVED FROM THE  
2 INFORMATION ALREADY PROVIDED?

3 MS. TREBICKA: YES. YES, YOUR HONOR. I WILL  
4 EXPLAIN THAT, AND I WILL JUST ASK MS. GAO TO CONFIRM FOR ME THE  
5 DOCKET NUMBER BECAUSE I BELIEVE I MAY HAVE MISSTATED THE DOCKET  
6 NUMBER, THE DOCKET NUMBER OF THE EXHIBITS THAT HAVE THE DATA,  
7 THE PRODUCED DATA. SO SHE CAN DO THAT WHILE I EXPLAIN THE  
8 [REDACTED] ISSUE.

9 THE COURT: SURE.

10 MS. TREBICKA: SO, YOUR HONOR, YOU'RE RIGHT, THE  
11 [REDACTED] ISSUE IS SLIGHTLY DIFFERENT IN THAT IF WE HAVE --  
12 THE DATA IN [REDACTED] IS DERIVED FROM OTHER TABLES. AND  
13 WITH YOUR HONOR'S PERMISSION, I WOULD LIKE TO -- JUST ONE  
14 SECOND, YOUR HONOR -- POINT YOU TO A DOCUMENT THAT WE HAVE  
15 ATTACHED HERE.

16 BUT IT IS DERIVED FROM TABLES THAT WE ARE PRESERVING,  
17 MAPPING TABLES THAT WE ARE PRESERVING.

18 ALL RIGHT. THE WAY IT WORKS, YOUR HONOR, IS THAT IT IS  
19 DERIVED FROM CERTAIN TABLES THAT JUST TO KIND OF PLACE IT IN  
20 A -- TO DRAW -- TO PAINT A PICTURE FOR YOUR HONOR. IT IS DRAWN  
21 FROM TABLES THAT CONTAIN THE A TO C IDENTIFIER AND THEN ALSO  
22 CONTAIN A -- OR MAPPING, ALSO CONTAIN A B TO C MAPPING. AND  
23 THEN WHAT --

24 THE COURT: YES. I SAW THAT EXAMPLE IN THE  
25 DECLARATION OF -- I CAN'T REMEMBER IF IT WAS MR. SEAH OR



1 MR. POTHANA.

2 MS. TREBICKA: POTHANA. I BELIEVE IT WAS MR. SEAH.

3 THE COURT: UH-HUH.

4 MS. TREBICKA: SO, YES, YOUR HONOR, IT'S DERIVED  
5 FROM. IT'S NOT EXACTLY DUPLICATED, THE EXACT DATA IN

6 [REDACTED] IS NOT DUPLICATED IN ANOTHER TABLE, BUT IT IS  
7 POSSIBLE TO DERIVE THAT SAME LINK THAT IS AVAILABLE IN

8 [REDACTED] BY LOOKING AT THESE TABLES THAT ARE BEING  
9 PRESERVED.

10 THE COURT: UH-HUH.

11 MS. TREBICKA: WHAT I WOULD LIKE TO POINT YOUR HONOR  
12 TO IS A DOCUMENT THAT WE HAVE PRODUCED IN THIS ACTION AND I  
13 HAVE ATTACHED TO MY DECLARATION, AND I KNOW THE CALHOUN DOCKET  
14 NUMBER, AND I DON'T HAVE THE BROWN DOCKET NUMBER AVAILABLE  
15 RIGHT NOW. SO IF I MAY?

16 THE COURT: I HAVE IT ALL HERE.

17 MS. TREBICKA: OKAY. I FIGURED YOU DO, YOUR HONOR.

18 THIS IS MY DECLARATION, SEALED DOCKET NUMBER 942-5, PUBLIC  
19 943-2. AND IT IS A DOCUMENT PRODUCED UNDER GOOG-CALH-00374314  
20 AND AT BATES LABEL ENDING IN 354 THIS DOCUMENT EXPLAINS -- AND  
21 RELATED PAGES. THIS DOCUMENT --

22 THE COURT: I'M SORRY. WHAT IS THE EXHIBIT NUMBER  
23 OF THE ATTACHMENT TO YOUR DECLARATION?

24 MS. TREBICKA: EXHIBIT NUMBER 1.

25 THE COURT: THIS IS ATTACHMENT NUMBER 1 TO YOUR

1 DECK?

2 MS. TREBICKA: RIGHT. I BELIEVE IT'S EXHIBIT  
3 NUMBER 1 TO MY DECLARATION.

4 THE COURT: OKAY. AND BATES ENDING 354. OKAY.

5 MS. TREBICKA: 354 IS THE PIN CITE FOR THE DOCUMENT.

6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 AND WHAT WE HAVE CONFIRMED IS THAT EACH ONE OF THESE LINKS  
12 OR MAPPINGS ARE IN THE TABLES THAT WE HAVE IDENTIFIED FOR  
13 PRESERVATION IN THOSE [REDACTED] TABLES THAT WE HAVE IDENTIFIED FOR  
14 PRESERVATION, [REDACTED]

15 [REDACTED] [REDACTED]  
16 [REDACTED]  
17 THE COURT: OKAY. BUT THE TABLES THAT ARE BEING  
18 PRESERVED, THE [REDACTED] AND THESE [REDACTED], NONE OF THAT HAS BEEN PRODUCED  
19 TO PLAINTIFFS; IS THAT RIGHT? IT'S JUST BEING RETAINED BY  
20 GOOGLE?

21 MS. TREBICKA: CORRECT, YOUR HONOR.

22 THE COURT: OKAY.

23 MS. TREBICKA: THIS IS PRESERVED DATA, NOT DATA THAT  
24 HAS BEEN PRODUCED.

25 I WOULD LIKE TO POINT OUT, YOUR HONOR, THAT FROM THE



1 PRESERVED DATA SOURCES, PLAINTIFFS HAVE HAD THE ABILITY TO  
2 REVIEW SAMPLES FROM THE VAST MAJORITY OF THEM BECAUSE WE HAVE  
3 PRODUCED NAMED PLAINTIFF'S DATA.

4 THE COURT: OKAY. WHAT DOES THAT HAVE TO DO WITH  
5 THE TABLES? I'M NOT --

6 MS. TREBICKA: NO, THE TABLES PLAINTIFFS HAVE NOT  
7 SEEN.

8 BUT AS FAR AS THE PRESERVED DATA SOURCES, YOUR HONOR, YES,  
9 IT'S NOT RELATED TO TABLES IN THE SENSE THAT THEY HAVE NOT SEEN  
10 THE TABLES. HOWEVER, THEY HAVE A SENSE FOR THE DATA THAT IS  
11 BEING PRESERVED PURSUANT TO THIS PRESERVATION PLAN AND THE  
12 TYPES OF INFORMATION THAT YOU NEED TO BE ABLE TO READ OR DECODE  
13 THE DATA IS THE POINT.

14 THE COURT: OKAY. ALL RIGHT.

15 MS. TREBICKA: ALSO, YOUR HONOR, I WOULD LIKE TO  
16 CLARIFY TWO THINGS.

17 FIRST UP, THE [REDACTED] TABLES IS THE SUM TOTAL. SO I DID NOT  
18 MEAN TO SUGGEST IT WAS THE [REDACTED] PLUS THE [REDACTED] THAT WE'RE SEEKING  
19 RELIEF FROM.

20 THE COURT: I UNDERSTAND.

21 MS. TREBICKA: OKAY. AND I WOULD ALSO LIKE TO POINT  
22 OUT THAT THE TWO, THE DOCKET NUMBERS OF THOSE TWO PRODUCED  
23 DOCUMENTS THAT SHOW THAT PLAINTIFFS HAVE THE UID OR CID TO  
24 BISCOTTI LINKS OR MAP, MAPPINGS. THOSE ARE DOCUMENT NUMBER  
25 805-8 AND DOCKET NUMBER 805-9.

1 THE COURT: OKAY. GOT IT.

2 MR. MCGEE: YOUR HONOR, IF I MAY, JUST ONE POINT

3 OF -- JUST A CLARIFYING QUESTION TO MS. TREBICKA.

4 THE COURT: JUST HANG ON TO THAT, MR. MCGEE.

5 MR. MCGEE: OKAY.

6 THE COURT: JUST HANG ON.

7 OKAY. ALL RIGHT. SO WE HAVE THE PRESERVATION ORDER IN  
8 PLACE. I INCLUDED IN THAT THE TABLES AS I DESCRIBED THAT WERE  
9 NEEDED TO WORK WITH THE DATA, NOT ALL MAPPING AND LINKING  
10 TABLES, BUT THOSE WITH DATA RELATED TO, AND OBVIOUSLY GOOGLE  
11 HAS IDENTIFIED THESE [REDACTED] AND MAKES THE ARGUMENT THAT THIS DATA  
12 IS AVAILABLE IN OTHER TABLES, AND WE HAVE THIS TREMENDOUS  
13 DISPROPORTIONALITY BETWEEN STORAGE AND THESE TABLES, THAT IS,  
14 INFORMATION FROM THESE TABLES AND THE REST OF THE PRESERVATION  
15 OBLIGATIONS.

16 BUT THIS IS ALL THE -- THE PLAINTIFFS DON'T HAVE ANY  
17 INSIGHT INTO THE TABLES OTHER THAN WHAT GOOGLE HAS SHARED HERE  
18 THROUGH THIS PROCESS AND THE MOTION.

19 AM I UNDERSTANDING THAT CORRECTLY, MS. TREBICKA?

20 MS. TREBICKA: OTHER THAN THE INFORMATION THAT  
21 GOOGLE HAS SHARED SO FAR, YOU'RE CORRECT.

22 THE COURT: OKAY. ALL RIGHT. THAT'S HELPFUL.

23 THANK YOU.

24 OKAY. LET ME HEAR FROM THE BROWN SIDE.

25 MR. MCGEE, I HAVE BEEN THROUGH THE PAPERS. I THINK I

1 UNDERSTAND THE ISSUES OR THE CONCERNS, BUT TELL ME IF THERE IS  
2 SOMETHING ADDITIONAL EITHER ARISING OUT OF WHAT YOU HAVE HEARD  
3 TODAY OR BASED ON MY OPENING REMARKS.

4 MR. MCGEE: SURE, YOUR HONOR.

5 I THINK THAT REALLY AT THE HEART OF THIS IS THAT AS YOU DO  
6 POINT OUT, GOOGLE DOES REPRESENT THAT THERE IS A MAGNITUDE OF  
7 DATA THAT IS STORED IN THESE MAPPING AND LINKING TABLES THAT IS  
8 NOT BEING PRESERVED ELSEWHERE.

9 AND AGAIN, WITH THE PAPERS, IT'S VERY OBVIOUS, AND YOU'VE  
10 POINTED IT OUT IN THE HEARING HERE TODAY, WE DON'T KNOW WHAT  
11 THAT IS. SO WITHOUT HAVING ANY INSIGHT INTO THAT, IT JUST  
12 BECOMES DIFFICULT, IF NOT IMPOSSIBLE, FOR US TO ASSESS OR  
13 QUANTIFY WHAT PREJUDICE WOULD RESULT FROM GOOGLE'S DELETION OF  
14 THESE MAPPING AND LINKING TABLES AND KNOW THAT IN THE PAPERS WE  
15 ASKED WHETHER IT WAS EVEN BEING PRESERVED AT THIS POINT BECAUSE  
16 THE DECLARATIONS ARE MORE PHRASED IN THE HYPOTHETICAL THAN IT  
17 HAS TAKEN US, IT WILL CONTINUE TO TAKE US, OR ANYTHING LIKE  
18 THAT.

19 SO, YOUR HONOR, AGAIN, I THINK THE DISCUSSION WITH  
20 MS. TREBICKA WAS HELPFUL TODAY BECAUSE IT DOESN'T SEEM LIKE  
21 THESE ARE DUPLICATIVE. IT JUST SEEMS LIKE THEY DRAW FROM THESE  
22 OTHER SOURCES THAT ARE BEING PRESERVED.

23 AGAIN, WE DON'T KNOW WHAT ELSE IS IN THESE [REDACTED] SOURCES,  
24 THESE [REDACTED] DATA SOURCES, THE MAPPING AND LINKING TABLES, THAT  
25 GOOGLE WOULD PROPOSE TO DELETE AND NO LONGER BE SUBJECT TO THE



1 COURT'S PRESERVATION ORDER. I THINK THAT'S REALLY THE TAKEAWAY  
2 FROM THE DISCUSSION TODAY BEYOND WHAT WAS DISCUSSED IN THE  
3 PAPERS.

4 MR. MAO MAY HAVE SOMETHING TO ADD ON THE TECHNICAL SIDE.

5 THE COURT: AND WHAT WAS YOUR CLARIFYING QUESTION,  
6 MR. MCGEE?

7 MR. MCGEE: OH, IT WAS SIMPLY TECHNICAL. SHE  
8 MENTIONED THE DOCKET NUMBERS FROM THE SEALING MOTION, AND I WAS  
9 JUST GOING TO ASK WHAT EXHIBITS THEY WERE. I THINK THEY WERE  
10 EXHIBITS 4 AND 5 TO HER DECLARATION, BUT I JUST WANTED TO  
11 CLARIFY THAT BECAUSE THE SEALING DOCKET NUMBERS ARE DIFFERENT  
12 FROM THE ACTUAL DOCKET NUMBERS THAT I HAVE FOR THE MOTION  
13 ITSELF, AS OPPOSED TO THE ADMINISTRATIVE MOTION.

14 THAT WAS ALL, JUDGE.

15 THE COURT: ALL RIGHT.

16 MS. TREBICKA, ARE THOSE EXHIBITS 4 AND 5? DOES IT  
17 TRANSLATE THAT WAY, IF YOU KNOW?

18 MS. TREBICKA: YES, YOUR HONOR, IT DOES.

19 WOULD YOU LIKE ME TO RESPOND?

20 THE COURT: WELL, IN A MOMENT. I APPRECIATE THE  
21 ISSUE THIS PRESENTS. THE PLAINTIFFS DON'T HAVE INSIGHT AS TO,  
22 WELL, IS GOOGLE'S POSITION, THAT IS, IF IT DOESN'T PRESERVE  
23 THIS INFORMATION, WE ALREADY HAVE IT, AND IT SEEMS LIKE THEY  
24 OUGHT TO BE ABLE TO TEST THAT IN SOME WAY OR AT LEAST HAVE A  
25 CLEAR AND DETAILED EXPLANATION OF WHAT DATA IN THE [REDACTED] TABLES

1 IS DUPLICATIVE OR CAN BE DERIVED FROM THE OTHER TABLES.

2 GOOGLE IS MAKING THE CALL THAT THERE'S A SUBSET OF  
3 RELEVANT DATA IN THESE TABLES OR RELATED DATA THAT RELATES TO  
4 PRESERVATION, BUT YOU CAN GET IT OVER HERE AT THESE TABLES.  
5 BUT IT'S SOME SUBSET. IT'S NOT ALL OF THE DATA IN THESE  
6 TABLES, AND THAT'S THE WAY THAT THE PRESERVATION ORDER IS SET  
7 UP. THAT'S THE WAY THAT THE ORDER WITH REGARD TO THE MAPPING  
8 AND LINKING TABLES WAS SET UP.

9 I'M NOT GOING TO, AGAIN, REORDER OR REOPEN DISCOVERY AND  
10 HAVE A FULL REVIEW OF EVERYTHING IN THESE TABLES. I DON'T  
11 THINK THAT'S CALLED FOR.

12 BUT IT DOES SEEM THAT TO THE EXTENT THAT THE ARGUMENT BY  
13 GOOGLE IS THAT WE SHOULDN'T HAVE TO PRESERVE THESE BECAUSE THIS  
14 DATA IS AVAILABLE FROM THESE OTHER SOURCES THAT ARE BEING  
15 PRESERVED, THAT IT MAY BE THAT THAT NEEDS TO BE MORE THOROUGHLY  
16 DEMONSTRATED TO THE PLAINTIFFS.

17 MS. TREBICKA: YOUR HONOR, WE HAVE IDENTIFIED WHERE  
18 THE DATA IS AND THE DATA SOURCES THAT ARE BEING PRESERVED WITH  
19 THESE EXHIBITS 4 AND 5 THAT PLAINTIFFS APPARENTLY DID NOT HAVE,  
20 THE EXHIBITS TO MY DECLARATION. SO THAT IDENTIFIES THE LINK.

21 THE COURT: WHY DID YOU THINK THAT THE PLAINTIFFS  
22 DIDN'T HAVE THOSE?

23 MS. TREBICKA: OR DIDN'T HAVE THEM AT THEIR  
24 FINGERTIPS OR DIDN'T KNOW. I'M NOT SURE. FOR SOME REASON --  
25 MAYBE THEY HAD IT. I DON'T KNOW. BECAUSE MR. MCGEE ASKED FOR



10:45AM 1 THE NUMBERS AGAIN. I WAS JUST ASSUMING MAYBE THEY WEREN'T  
10:45AM 2 AWARE THAT IT WAS IN THE DATA, SO NOW THAT EXPLANATION IS OUT  
10:45AM 3 THERE.

10:45AM 4 AND IF PLAINTIFFS WERE, THEN THAT'S FINE.

10:45AM 5 MR. MCGEE: NO. IT WAS JUST FOR THE PURPOSES OF THE  
10:45AM 6 RECORD THAT YOU WERE MAKING REPRESENTATIONS THAT INFORMATION  
10:45AM 7 WAS SHARED. BUT, YOUR HONOR --

10:45AM 8 THE COURT: LET ME FINISH HEARING FROM MS. TREBICKA.  
10:45AM 9 GO AHEAD.

10:45AM 10 MS. TREBICKA: THANK YOU.

10:45AM 11 SO -- BECAUSE THERE'S TWO PIECES TO CONFIRMING THAT THE  
10:45AM 12 SAME DATA THAT IS FOUND IN THE TABLES THAT WE'RE SEEKING RELIEF  
10:46AM 13 ON IS ALSO FOUND IN THE PRESERVED DATA. YOU NEED TO LOOK AT  
10:46AM 14 THESE TWO SOURCES.

10:46AM 15 MY POINT IS THAT PLAINTIFFS ALREADY HAVE THE ABILITY TO  
10:46AM 16 LOOK AT ONE SOURCE FOR THE ANALYTICS TABLES, THE PRESERVED DATA  
10:46AM 17 AS WE HAVE NOW POINTED OUT, AND WE HAVE DETAILED DECLARATIONS  
10:46AM 18 STATING WHAT IS FOUND AS FAR AS THE MAPPING OR LINKING IN THESE  
10:46AM 19 MAPPING OR LINKING TABLES THAT WE HAVE IDENTIFIED.

10:46AM 20 AND, YOUR HONOR, THIS IS PRESERVATION. IT IS OUR BURDEN  
10:46AM 21 TO IDENTIFY THEM, AND WE HAVE DONE THAT. WE HAVE BEEN VERY  
10:46AM 22 TRANSPARENT IN THE CLASSES THAT WE UNDERWENT TO DO THAT. AND  
10:46AM 23 IT IS LAID OUT IN THESE DECLARATIONS THAT WE TOOK A LOT OF TIME  
10:46AM 24 TO PUT TOGETHER PRECISELY TO ANSWER YOUR HONOR'S QUESTION OF,  
10:46AM 25 WELL, HOW CAN WE KNOW?

10:46AM 1 SO WE THINK THAT WE HAVE FULFILLED THAT DEMONSTRATION THAT  
10:46AM 2 YOUR HONOR IS LOOKING FOR IN TERMS OF HOW TO BE SURE THAT THE  
10:46AM 3 DATA IS FOUND IN BOTH PLACES.

10:47AM 4 THE COURT: IT SEEMS TO ME THAT THE PLAINTIFFS  
10:47AM 5 SHOULD AT LEAST, AND I -- IT DOESN'T LOOK LIKE THERE WAS MEET  
10:47AM 6 AND CONFER AROUND THIS ISSUE IN ADVANCE OF THE MOTION AND  
10:47AM 7 IT'S -- YOU KNOW, QUERY WHETHER THAT'S REQUIRED.

10:47AM 8 BUT THERE'S -- I SEE YOU, MR. MAO. I'M COMING BACK TO  
10:47AM 9 YOUR SIDE.

10:47AM 10 BUT IT SEEMS THAT THE EITHER -- WELL, THERE WOULD BE A  
10:47AM 11 BENEFIT AND PERHAPS A NEED FOR AN EXPLANATION OF THAT MATERIAL  
10:47AM 12 TO THE EXTENT THAT IT'S NOT READILY AVAILABLE WITH TECHNICAL  
10:48AM 13 PEOPLE ON BOTH SIDES SO THAT -- AND IT MAY WELL BE COUNSEL AND  
10:48AM 14 IT MAY BE AN EXPERT, BUT WHO CAN HEAR AND UNDERSTAND AND SORT  
10:48AM 15 OF VERIFY GOOGLE'S PROFFER AS TO, LOOK, HERE'S HOW -- THE A TO  
10:48AM 16 C TO B, I APPRECIATE THAT, BUT THAT'S, THAT'S, YOU KNOW, IN  
10:48AM 17 SIMPLIFIED, A MORE SIMPLIFIED ILLUSTRATION. BUT THEN, IN FACT,  
10:48AM 18 THIS DATA CAN BE, CAN BE DERIVED, IS IN THE TABLES THAT ARE  
10:48AM 19 BEING PRESERVED AND CAN BE FOUND ESSENTIALLY, YOU KNOW,  
10:48AM 20 INSTRUCTIONS ON HERE IS HOW. TO ENSURE THAT THERE'S NOT  
10:48AM 21 SOME -- THAT THEY'RE NOT CREATING A SITUATION WHERE DATA IS  
10:49AM 22 BEING PRESERVED BUT ULTIMATELY CAN'T BE READ BECAUSE THESE  
10:49AM 23 TABLES WERE NOT PRESERVED.

10:49AM 24 I THINK IT'S A WORTHWHILE INQUIRY, BUT IT WILL ALSO BE  
10:49AM 25 FAIRLY SIMPLIFIED AND DIRECT INQUIRY OR DEMONSTRATION. AGAIN,

10:49AM

1

WE ARE VERY FOCUSSED ON THIS VERY NARROW SLICE OF THE

10:49AM

2

PRESERVATION OBLIGATION.

10:49AM

3

NOW, IN TERMS OF IT'S JUST ONE PIECE OF THE WHOLE AND YET

10:49AM

4

THIS ONE PIECE HAS, AGAIN, THIS DISPROPORTIONATE IMPACT ON THE

10:49AM

5

AMOUNT OF DATA TO BE PRESERVED.

10:49AM

6

SO IT'S A NONSTARTER TO SAY THAT WE NEED TO KNOW WHAT ALL

10:49AM

7

OF THAT DATA IS. WE'LL START WITH WHAT IS RELATED TO WHAT IS

10:50AM

8

ALREADY BEING PRESERVED AND HOW IS THAT -- YOU KNOW, HOW DOES

10:50AM

9

THAT TRANSLATE, IF YOU WILL? HOW DO YOU GET FROM WHAT IS IN

10:50AM 10

THE ANALYTICS AND [REDACTED] TABLES TO WHAT IS IN THE LOGS

10:50AM 11

THAT ARE ALREADY BEING PRESERVED?

10:50AM 12

SO LET ME HEAR -- MR. MAO, YOU'VE BEEN WAITING PATIENTLY.

10:50AM 13

MR. MAO: NO WORRIES, YOUR HONOR. REAL QUICK.

10:50AM

14

THREE QUICK POINTS, JUST TECHNICAL DETAILS I JUST WANT TO

10:50AM 15

CLARIFY REALLY QUICKLY.

10:50AM 16

SO, FIRST OF ALL, THE TABLES THEMSELVES HAVE NEVER BEEN

10:50AM 17

PRODUCED OR ALLOWED TO BE EXAMINED BY THE PLAINTIFFS. AND WHAT

10:50AM 18

MS. TREBICKA IS REFERRING TO IN TERMS OF HOW WE, QUOTE-UNQUOTE,

10:50AM 19

"INDIRECTLY WERE PUT ON NOTICE OF IT," IS THAT THE TABLES HELP

10:50AM 20

INFORM SOMEBODY TRYING TO PULL DATA FROM THE LOGS WHICH ROWS OF

10:50AM 21

DATA TO PULL FROM. OKAY?

10:50AM 22

SO WHEN SHE'S SAYING THAT WE'RE INDIRECTLY ON NOTICE OF

10:50AM 23

IT, WHAT SHE IS REFERRING TO IS, IS THAT WE'VE INDIRECTLY

10:51AM 24

REACTED WITH THE TABLES BECAUSE WE'VE ASKED CERTAIN OF OUR

10:51AM 25

PLAINTIFF ID'S TO BE PULLED. THEY HAD TO LOOK AT THE TABLE



10:51AM 1 WITHOUT LETTING US LOOKING AT THE TABLE, AND THEN THEY GAVE US  
10:51AM 2 BACK THE RESULTS.

10:51AM 3 SO WE ACTUALLY DO NOT KNOW WHAT IS IN THE TABLE OTHER THAN  
10:51AM 4 WHAT WAS RETURNED TO US, AND THERE MAY BE OTHER COLUMNS AND  
10:51AM 5 OTHER INFORMATION, AND THAT MAY BE RELEVANT, BUT THAT'S  
10:51AM 6 SOMETHING THAT I NEED TO POINT OUT REALLY QUICKLY.

10:51AM 7 SECOND OF ALL, IN TERMS OF THERE BEING REDUNDANCIES WHERE  
10:51AM 8 THE TABLE WAS DUPLICATED, THAT SUGGESTS THE TABLE WAS USED FOR  
10:51AM 9 MULTIPLE DIFFERENT SERVICES AND NOT ONLY WERE WE NEVER PROVIDED  
10:51AM 10 THE TABLES, WE WERE NEVER TOLD WHAT DIFFERENT SERVICES FALL  
10:51AM 11 WITH THESE TABLES.

10:51AM 12 THE COURT: THAT WAS NEVER WITHIN THE SCOPE OF THE  
10:51AM 13 ORDER, MR. MAO? PRODUCTION OF THE TABLES, PRODUCTION AND  
10:51AM 14 EXPLANATION OF EVERYTHING THAT IS, YOU KNOW, YOU CAN MAP FROM  
10:51AM 15 THESE TABLES WAS NEVER CONTEMPLATED BY THE PRESERVATION ORDER.

10:51AM 16 MR. MAO: RIGHT. ALL I'M SIMPLY CLARIFYING IS THAT  
10:51AM 17 WHAT WE ARE BEING -- SORRY, WHAT WE ARE ALLEGEDLY HAVING BEEN  
10:52AM 18 GIVEN, WHICH, IN FACT, WE DID NOT, RIGHT? IT'S JUST WE WERE  
10:52AM 19 NEVER GIVEN AN OPPORTUNITY ON THAT.

10:52AM 20 AND THOSE WERE REALLY MY MAIN POINTS. I THINK THE LAST  
10:52AM 21 POINT YOUR HONOR REALLY HIT ON WHICH IS THIS IS NOT THE SAME  
10:52AM 22 SET OF DATA ACROSS DIFFERENT SET OF TABLES.

10:52AM 23 THAT'S IT, YOUR HONOR.

10:52AM 24 THE COURT: OKAY. ALL RIGHT.

10:52AM 25 AND, MR. MCGEE, DID YOU HAVE ANYTHING FURTHER?

10:52AM 1 MR. MCGEE: NO, YOUR HONOR. I THINK HE'S SUMMARIZED  
10:52AM 2 IT, AND I THINK THAT WE'RE -- WE'LL REST ON WHAT IS IN THE  
10:52AM 3 PAPERS AND WHAT HAS BEEN DISCUSSED.

10:52AM 4 THE COURT: OKAY. LIKE MANY ISSUES IN THIS CASE, IT  
10:52AM 5 IS COMPLEX, BUT NOT WITHOUT A PATH FORWARD, AND THE PARTIES  
10:52AM 6 NEED TO FIGURE OUT WHAT THAT IS, AND YOU NEED TO DO IT IN SHORT  
10:53AM 7 ORDER.

10:53AM 8 MS. TREBICKA, I -- MY TAKEAWAY FROM THE -- FROM YOUR  
10:53AM 9 PAPERS WAS THAT THESE TABLES ARE NOT CURRENTLY BEING PRESERVED.  
10:53AM 10 YOUR CURRENT PRESERVATION IS OF THE [REDACTED] TABLES, BUT YOU'VE  
10:53AM 11 RAISED THIS ISSUE BECAUSE YOU RECOGNIZE THAT THERE IS  
10:53AM 12 RELATED -- DATA THAT RELATES TO DATA THAT IS BEING PRESERVED,  
10:53AM 13 BUT IT IS GOOGLE'S POSITION THESE TABLES ARE NOT NEEDED FOR THE  
10:53AM 14 REASONS PROVIDED IN YOUR PAPERS.

10:53AM 15 IS THAT CORRECT?

10:53AM 16 MS. TREBICKA: YES, YOUR HONOR, THAT'S CORRECT.

10:53AM 17 THE COURT: OKAY. SO THAT NEEDS TO -- SO WE NEED TO  
10:53AM 18 MOVE ON THIS WITH SOME SPEED.

10:53AM 19 MR. MCGEE, YOU HAD A QUESTION ON THAT LAST Q AND A?

10:53AM 20 MR. MCGEE: YES, YOUR HONOR, JUST THE NUMBERS HERE.

10:53AM 21 I THOUGHT I UNDERSTOOD THAT IT WAS [REDACTED] WERE IDENTIFIED.

10:53AM 22 IT'S [REDACTED] THAT

10:54AM 23 WERE AT ISSUE? THAT'S JUST -- I THINK I'VE HEARD KIND OF  
10:54AM 24 DISCUSSION BOTH WAYS TODAY, AND I THINK IT WOULD JUST HELP TO  
10:54AM 25 CLARIFY THAT.

10:54AM

1

THE COURT: MS. TREBICKA, I UNDERSTOOD IT'S [REDACTED]

10:54AM

2

TABLES ARE BEING PRESERVED PLUS THERE ARE THESE [REDACTED] THAT ARE AT

10:54AM

3

ISSUE.

10:54AM

4

MS. TREBICKA: NO, YOUR HONOR. IT'S [REDACTED]. SO

10:54AM

5

IT'S -- [REDACTED] IS THE SUM TOTAL.

10:54AM

6

THE COURT: [REDACTED]?

10:54AM

7

MS. TREBICKA: [REDACTED] IS THE SUM TOTAL. I

10:54AM

8

APOLOGIZE.

10:54AM

9

THE COURT: IT DOESN'T MATTER. OKAY.

10:54AM 10

BUT THESE [REDACTED] ARE NOT CURRENTLY BEING PRESERVED; CORRECT?

10:54AM 11

MS. TREBICKA: THESE [REDACTED] ARE NOT CURRENTLY BEING

10:54AM 12

PRESERVED DUE TO THE CONCERNS AND JUSTIFICATIONS THAT

10:54AM 13

YOUR HONOR NOTED.

10:54AM 14

THE COURT: OKAY. ALL RIGHT.

10:54AM 15

THANK YOU, MR. MCGEE.

10:54AM 16

MY POINT IS WHAT TO DO WITH THESE [REDACTED] TABLES. THE

10:55AM 17

PRESERVATION BURDEN AS PRESENTED IN THE PAPERS BY GOOGLE DOES

10:55AM 18

RAISE THE ISSUE, SATISFACTORILY TO THE COURT'S VIEW, RAISE THE

10:55AM 19

ISSUE OF PROPORTIONALITY OF -- THE BALANCE OF PROPORTIONALITY

10:55AM 20

IN THE NEED TO PRESERVE THESE.

10:55AM 21

THE QUESTION WHETHER TECHNICALLY THEY FALL UNDER MY ORDER

10:55AM 22

OR NOT, ARE THEY NEEDED IF THE DATA IS AVAILABLE SOMEPLACE

10:55AM 23

ELSE, BUT IT'S THAT DATA AVAILABLE THAT IS STILL A QUESTION.

10:55AM 24

BUT IT'S A QUESTION THAT REALLY THE -- I THINK THE PARTIES NEED

10:55AM 25

TO MEET AND CONFER AND NEED A MORE CLEAR DEMONSTRATION OF.



1 AND I DON'T SEE HOW THAT HAPPENS WITHOUT GOOGLE SHOWING  
2 AND WORKING WITH THE PLAINTIFFS TO SHOW BOTH SIDES OF THE  
3 EQUATION, WHICH IS HERE'S THE DATA IN THE TABLES THAT WE DON'T  
4 THINK NEED TO BE PRESERVED FROM THE [REDACTED] TABLES, BUT HERE'S HOW  
5 AND WHERE YOU FIND IT IN THE MATERIAL THAT IS BEING PRESERVED  
6 AND WALK THROUGH THAT AND DEMONSTRATE.

7 NOW, I APPRECIATE PARTIES MAY OR MAY NOT APPRECIATE THE  
8 FACT THAT THAT CAN HAPPEN, BUT WE HAVE GOOGLE'S REPRESENTATION  
9 THAT THE DATA CAN EITHER BE DERIVED FROM OR IS DUPLICATED IN,  
10 AND I THINK THAT THAT NEEDS TO BE MORE CLEARLY DEMONSTRATED AND  
11 SOMETHING THAT I WOULD HOPE THE PARTIES CAN DO DIRECTLY, AGAIN,  
12 ON SHORT ORDER WITH THE UNDERSTANDING THAT THE PRESERVATION  
13 BURDEN FROM THESE TABLES IS SUCH THAT IF IT WERE TO BE THE  
14 PLAINTIFF'S POSITION THAT NO, YOU KNOW, THAT LINK, THAT  
15 DERIVATION IS NOT -- WE'RE NOT SATISFIED WITH THAT, THERE WILL  
16 BE COST SHARING IN THIS. THERE WILL HAVE TO BE SOME  
17 SIGNIFICANT SHIFTING OF COSTS AS TO PRESERVING THE TABLES  
18 BECAUSE THIS IS -- IT'S SO MUCH MORE THAN EVEN THE BASIC  
19 PRESERVATION OBLIGATIONS UNDER THE PLAN OF WHICH WE ALL TOOK SO  
20 MUCH GREAT CARE AND EFFORT TO INSTILL.

21 SO I THINK IT BEHOOVES BOTH SIDES TO FIGURE OUT A WAY TO  
22 SIT ACROSS THE TABLE WITH THE RIGHT PEOPLE AT THE TABLE AND  
23 ADDRESS THIS ISSUE PARTICULARLY.

24 AGAIN, IF BOTH SIDES WERE TO AGREE THAT YOU NEEDED THE  
25 SPECIAL MASTER'S ASSISTANCE, THEN WE CAN TALK ABOUT REFERRING

10:58AM 1 YOU BACK TO THAT.

10:58AM 2 BUT IT SEEMS TO ME THAT GOOGLE'S PRESENTATION HERE IS  
10:58AM 3 THOROUGH AND IT'S DESIGNED IN A WAY TO WALK THROUGH AND ADDRESS  
10:58AM 4 THESE QUESTIONS. BUT THE PLAINTIFFS DON'T HAVE, THEY DON'T  
10:58AM 5 HAVE ALL OF THE INFORMATION IN FRONT OF THEM TO VERIFY OR GET  
10:58AM 6 COMFORTABLE WITH THESE CONNECTIONS THAT GOOGLE IS TRYING TO --  
10:58AM 7 IS ILLUSTRATING.

10:58AM 8 SO REACTIONS TO THAT DIRECTION AND SUGGESTIONS ON TIMING  
10:58AM 9 AND NEXT STEPS?

10:58AM 10 MS. TREBICKA.

10:58AM 11 MS. TREBICKA: YOUR HONOR, WE TAKE YOUR GUIDANCE.  
10:58AM 12 THANK YOU FOR THAT. WE ARE AVAILABLE AND READY TO WORK WITH  
10:58AM 13 PLAINTIFFS TO PROVIDE THEM THE SATISFACTION THAT THE  
10:59AM 14 INFORMATION THAT WE SAY IS BEING PRESERVED AND IN THE OTHER  
10:59AM 15 PLACES IS INDEED BEING PRESERVED IN THE OTHER PLACES.

10:59AM 16 THE COURT: OKAY. AND THAT REQUIRES SHOWING WHAT IS  
10:59AM 17 IN THESE TABLES. IT REQUIRES BOTH SIDES. SO THERE HAS TO BE  
10:59AM 18 SOME ADDITIONAL INFORMATION PROVIDED BY GOOGLE.

10:59AM 19 MS. TREBICKA: AS FAR AS THE MAPPING AND LINKING  
10:59AM 20 THAT IS IN THESE TABLES, CORRECT, IS OUR UNDERSTANDING AT  
10:59AM 21 LEAST.

10:59AM 22 THE COURT: RIGHT. YOU'RE SAYING THAT THIS IS THE  
10:59AM 23 LINKING IN THE [REDACTED] TABLES AT ISSUE, AND HERE'S WHERE YOU FIND  
10:59AM 24 IT IN WHAT IS ALREADY BEING PRESERVED.

10:59AM 25 MS. TREBICKA: WE UNDERSTAND, YOUR HONOR.

1 THE COURT: BUT PLAINTIFFS NEED TO SEE BOTH SIDES OF  
2 THAT.

3 MR. MCGEE, PLAINTIFFS' PERSPECTIVE?

4 MR. MCGEE: YOUR HONOR, I THINK THAT WHAT YOU'VE  
5 PROPOSED IS KIND OF AT THE HEART OF WHAT WE PUT IN OUR  
6 OPPOSITION AS WE DID HAVE THESE QUESTIONS, AND WE WOULD LIKE TO  
7 MEET AND CONFER.

8 SO WE'LL SPEAK WITH OUR CONSULTANTS AND OUR EXPERTS TO SEE  
9 WHAT THEIR AVAILABILITY IS, BUT WE WILL MOVE WITH THE ALACRITY  
10 THAT THE COURT IS PROPOSING HERE.

11 THE COURT: OKAY. I WOULD LIKE TO GET A STATUS  
12 REPORT AS TO WHAT THE PLAN IS. YOU TALK TO EACH SIDE AND SET  
13 SOMETHING UP. GIVE ME A STATUS WITH A PROPOSED PATH FORWARD IN  
14 SEVEN DAYS? IN A WEEK?

15 MR. MCGEE?

16 MR. MCGEE: YOUR HONOR, MY GRIMACE IS THAT WE DO  
17 HAVE OUR OPPOSITION TO THE ORDER TO SHOW CAUSE THAT IS DUE  
18 JANUARY 20TH THAT OUR CONSULTANTS AND EXPERTS ARE WORKING WITH.

19 THE COURT: OKAY. WELL, I WAS GOING TO GIVE YOU  
20 21 DAYS, SO I THINK THAT THAT GETS US PAST THAT. THANK YOU FOR  
21 REMINDING ME OF THAT. I -- HOW COULD I FORGET. MORE TO COME.

22 MR. MCGEE: THANK YOU.

23 THE COURT: LET'S DO THIS, 21 DAYS, BUT I WANT -- I  
24 MEAN, THAT'S NOT AN OKAY, NOW WE'RE JUST GOING TO GET STARTED.  
25 IF I AM GIVING YOU 21 DAYS, YOU NEED TO HAVE SPOKEN WITH YOUR



1 EXPERTS, HAVE A PLAN ON HOW TO PROCEED, HAVE MET AND CONFERRED,  
2 AND HAVE AN AGREED PLAN AND TIMELINE.

3 YOU KNOW, WE'RE GOING TO MEET OVER THE NEXT 30 DAYS OR THE  
4 NEXT 10 DAYS, OR WHATEVER IT IS. AND I DO EXPECT BOTH SIDES TO  
5 BE RESPECTFUL OF THE DEADLINES AROUND THE ADDITIONAL BRIEFING  
6 THAT WE HAVE FOR OUR NEXT HEARING IN MARCH.

7 MS. TREBICKA: ALL RIGHT, YOUR HONOR, BECAUSE THEN  
8 OUR REPLY FALLS WITHIN THAT.

9 THE COURT: EXACTLY. BUT I ALSO SEE A LOT OF  
10 GOOGLE'S WORK IS DONE, AND THE GOOGLE DECLARATIONS DON'T RELATE  
11 TO THOSE OTHER ISSUES, BUT I ALSO APPRECIATE THERE ARE ONLY SO  
12 MANY LAWYERS IN THE -- EVEN IN THIS CASE, THERE ARE ONLY SO  
13 MANY WHO CAN WORK THROUGH THIS.

14 SO I LEAVE THAT TO THE PARTIES, AND YOU'LL REPORT BACK TO  
15 ME IN 21 DAYS IN A JOINT STATEMENT, AND I EXPECT THAT TO BE A  
16 REPORT AS TO HERE IS THE PLAN AND HERE IS WHERE WE ARE GOING.  
17 AND YOU CAN GET THIS TOGETHER AND WORK THROUGH WITHOUT MY  
18 MAKING YOU COME TO COURT AND WORK IN THE CONFERENCE ROOM DOWN  
19 THE HALL. ALL RIGHT.

20 MR. MCGEE: YES.

21 THE COURT: ANYTHING ELSE ON THIS? THIS IS GOOGLE'S  
22 MOTION, MS. TREBICKA.

23 MS. TREBICKA: YES, YOUR HONOR. NOT ON THE NOTICED  
24 MOTION THAT WE WERE JUST DISCUSSING, BUT RATHER ON OUR MOTION  
25 FOR PRESERVATION RELIEF ON THE BASIS OF JUDGE GONZALEZ ROGERS'

1 DECEMBER 12TH ORDER.

2 WE DID PUT A LOT OF EFFORT INTO THAT MOTION BECAUSE WE  
3 REALLY THOUGHT THAT GIVEN THE CIRCUMSTANCES, THAT JUST THE  
4 SHIFT IN THE EQUITIES HERE WITH THE RULE 23(B)(3) CLASS BEING  
5 DENIED, THE MASSIVE PRESERVATION COSTS THAT GOOGLE IS  
6 UNDERTAKING, THEY'RE NOT ONLY MONETARY, ENGINEERING COSTS,  
7 HUMAN COSTS, PRIVACY COSTS IN PRESERVING THIS DATA, THEY'RE SO  
8 MASSIVE AND NOW REALLY THE BASIS FOR THOSE PRESERVATION COSTS  
9 WE BELIEVE HAS ERODED. SO I JUST WANTED TO MAKE THAT POINT IN  
10 FRONT OF YOUR HONOR. I WOULD BE REMISS IF I DIDN'T DO THAT.

11 AND ALSO ASK WHETHER I UNDERSTOOD YOUR HONOR TO BE TABLING  
12 THAT DISCUSSION OF THE TOTAL PRESERVATION RELIEF ON THE BASIS  
13 THAT THERE'S A RULE 23(F) APPEAL.

14 WE WOULD LIKE TO RENEW OUR MOTION ONCE WE HAVE CLARITY ON  
15 THE RULE 23(F) APPEAL, AND I JUST WANT TO MAKE SURE THAT  
16 YOUR HONOR IS AWARE OF THAT.

17 THE COURT: I APPRECIATE THAT. THE PRESERVATION  
18 ISSUE IS TIED IN PART OBVIOUSLY TO THE ISSUE ON APPEAL, BUT I  
19 WANTED CLARIFICATION BECAUSE I UNDERSTOOD FROM THE SUBMISSIONS  
20 THAT ALL OTHER PRESERVED DATA, TAKING OUT THE TABLES ISSUE,  
21 WHICH I'M CONFIDENT THAT THE PARTIES ARE GOING TO BE ABLE TO  
22 ADDRESS IN A CONSTRUCTIVE WAY, THAT THE DATA LOAD IN [REDACTED]  
23 AFTER THREE YEARS IS [REDACTED], AND THE COST NUMBER, TAKING  
24 GOOGLE'S COST ANALYSIS, IS [REDACTED] OVER A THREE YEAR PERIOD.

25 AM I UNDERSTANDING THAT CORRECTLY?

11:04AM 1 MS. TREBICKA: YES, YOUR HONOR. THAT'S ACCORDING TO  
11:05AM 2 OUR CALCULATIONS AT THIS POINT.

11:05AM 3 THE COURT: I UNDERSTAND. SO WHILE THAT IS NOT  
11:05AM 4 INSIGNIFICANT, IT'S NOT AN OVERWHELMING BURDEN THAT IN MY VIEW  
11:05AM 5 CHANGES THE PROPORTIONALITY ANALYSIS NOTWITHSTANDING THE SHIFT  
11:05AM 6 IN CLASS STATUS, BUT ULTIMATELY THERE'S NOT YET ENOUGH  
11:05AM 7 INFORMATION AS TO WHAT IS HAPPENING AND WHAT THE CLASS STATUS  
11:05AM 8 IS.

11:05AM 9 SO I'M GOING TO DENY THE REQUEST, GOOGLE'S REQUEST IN ITS  
11:05AM 10 BRIEF BEFORE THE COURT AS TO THE IMPACT OF  
11:05AM 11 JUDGE GONZALEZ ROGERS' ORDER WHEREIN GOOGLE REQUESTED THAT IT  
11:05AM 12 NOT HAVE TO PRESERVE ANYTHING GOING FORWARD AND THAT IT BE  
11:05AM 13 PERMITTED TO DELETE DATA PRESERVED THUS FAR OR HAVE PLAINTIFF  
11:05AM 14 SHARE IN THE COST OF THE CONTINUED PRESERVATION, I'M GOING TO  
11:06AM 15 DENY THAT WITHOUT PREJUDICE, AND IT CAN BE RENEWED IF THE  
11:06AM 16 UNDERLYING FACTS AND CIRCUMSTANCES CHANGE.

11:06AM 17 MS. TREBICKA: UNDERSTOOD, YOUR HONOR.

11:06AM 18 AND ALSO TO CLARIFY FOR THE RECORD A BASIS FOR THE BURDEN  
11:06AM 19 IS NOT JUST THE MONETARY COST, ALTHOUGH [REDACTED] IS NOTHING  
11:06AM 20 TO --

11:06AM 21 THE COURT: NO. I UNDERSTAND. THERE WAS AN  
11:06AM 22 ARGUMENT MADE AND IT'S IN THE RECORD OF THE [REDACTED]  
11:06AM 23 [REDACTED] THE ENGINEERING IMPACT, THE HUMAN COST, IF YOU WILL,  
11:06AM 24 AND I APPRECIATE THAT.

11:06AM 25 I REFERRED TO THE [REDACTED] IN THE DOLLARS BECAUSE THOSE



1 ARE IN TABLES AND I CAN -- YOU KNOW, TO THE EXTENT THAT THEY'RE  
2 QUANTIFIED, THEY'RE THERE.

3 OKAY. SO THAT IS DENIED WITHOUT PREJUDICE.

4 WITH REGARDS TO NOTICED MOTION FOR ADJUSTMENTS ON THE  
5 TABLES, THE PARTIES WILL NEED TO MEET AND CONFER IN ACCORDANCE  
6 WITH THE GUIDANCE OF THE COURT, AND I WILL GET A STATUS RECORD  
7 WITH A TIMELINE AS TO COMPLETION IN THE NEAR TERM, BUT I WILL  
8 GET THAT IN 21 DAYS. AND I WILL ISSUE A SHORT ORDER  
9 SUMMARIZING OUR RULINGS HERE TODAY.

10 MR. MCGEE: THANK YOU, YOUR HONOR.

11 THE COURT: ALL RIGHT. THANK YOU.

12 THAT CONCLUDES BROWN. THANK YOU.

13 MS. TREBICKA: THANK YOU.

14 THE COURT: ALL RIGHT. WE'RE GOING TO TAKE A FIVE  
15 MINUTE BREAK BEFORE STARTING THE CALHOUN HEARING SO I CAN,  
16 FRANKLY, SHIFT MY FILES AND BINDERS.

17 FIVE MINUTES. THANK YOU.

18 (COURT CONCLUDED AT 11:07 A.M.)  
19  
20  
21  
22  
23  
24  
25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE  
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO  
HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS  
A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE  
ABOVE-ENTITLED MATTER.

A handwritten signature in black ink that reads "Irene Rodriguez". The signature is written in a cursive, flowing style with a large, decorative flourish at the end of the last name.

IRENE RODRIGUEZ, CSR, RMR, CRR  
CERTIFICATE NUMBER 8074

DATED: JANUARY 12, 2023